

Please Direct All Correspondence to Customer Number 20995

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION**

Applicant : Alexander Ivanovich Taran
App. No : 09/830,635
Filed : August 2, 2001
Title : CONTACT NODE
Examiner : J.C. Norris
(Supervisory Examiner Kamand Cuneo)
Art Unit : 2841

**CERTIFICATE OF EFS WEB
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I hereby certify that this correspondence, and any other attachment noted on the automated Acknowledgement Receipt, is being transmitted from within the Pacific Time zone to the Commissioner for Patents via the EFS Web server on:

October 17, 2007

(Date)

John M. Carson, Reg. No. 34,303

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 CFR § 1.137(b)**

Applicant hereby requests that the U.S. Patent and Trademark Office (PTO) revive the above-identified application which was unintentionally abandoned. A reply to an outstanding Office Action dated March 25, 2005 is attached hereto. The petition fee as set forth in 37 CFR § 1.17(m) is also submitted. Applicant respectfully submits that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional as described below in greater detail.

Applicant filed a petition, on August 10, 2006, to withdraw the holding of abandonment in the above-identified application which was abandoned based on failure to receive the March 25, 2005 Office Action from the PTO. On January 29, 2007, Applicant received a PTO's decision dated January 24, 2007, indicating that the petition is dismissed. The decision further indicated that instead of filing a request for reconsideration of the petition decision, Applicant may file a petition to revive the above-identified unintentionally abandoned application under 37 CFR § 1.137(b).

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On February 28, 2007, the undersigned, Applicant's U.S. attorney at Knobbe, Martens, Olson and Bear (KMOB), sent a reporting letter (copy attached) regarding the petition decision to Applicant's Russian attorney, Mr. Valery Zyl.

On April 15, 2007, Mr. Zyl sent an instruction letter (copy attached) to the undersigned requesting to file a petition to revival along with an Office Action reply.

On April 20, 2007, in view of a significant amount of outstanding invoices unpaid by Applicant, the undersigned, sent Mr. Zyl a letter (copy attached) requesting a retainer for preparing and filing a petition to revival for the unintentionally abandoned application and a reply to the March 25, 2005 Office Action.

On June 6, 2007, Mr. Zyl sent another instruction letter (copy attached), without including the requested retainer, to the undersigned requesting to file a petition to revival along with an Office Action reply.

On June 15, 2007, the undersigned sent Mr. Zyl another letter (copy attached) requesting again the retainer for the petition and Office Action reply.

On August 28, 2007, Mr. Zyl sent the undersigned a letter in Russian (copy attached) which appears to be related to the requested retainer.

The undersigned recently confirmed that the retainer of \$4000 was received by KMOB. Shortly after confirming the receipt of the retainer, the undersigned started working on this petition and the Office Action reply attached hereto.

In view of the above, Applicant respectfully submits that that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was

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unintentional. Thus, Applicant respectfully requests that the above-identified unintentionally abandoned application be revived.

The Commissioner is hereby authorized to charge any additional fees or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP



By: _____

John M. Carson
Registration No. 34,303
Attorney of Record
Customer No. 20,995
(619) 235-8550

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H2C

VALERY P. ZYL

**EURASIAN AND RUSSIAN
PATENT ATTORNEY**

PATENT ATTORNEY VALERY P. ZYL
LENINSKY AVENUE, d.60/2, kv.160,
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VIA FACSIMILE (619) 235 - 0176

Mr. John M. Carson
KNOBBE MARTENS OLSON & BEAR LLP
550 West C Street
Suite 1200
San Diego CA 92101, USA

Moscow, August 28, 2007

Your ref.: **VALER11.001APC**

My ref.: **RU-US 1-2001**

RE: U.S. Patent Application No. 09/830635

Filed: August 2, 2001

Applicants: TARAN A.I.

Title: CONTACT NODE

Dear Mr. Carson:

Мы получили Ваше письмо от June 15, 2007, которое так и не внесло ясности в формирование указанной Вами стоимости работы, заключающейся в подаче в Ведомство формулы изобретения, приложенной к нашему письму от April 15, 2007. Тем не менее, мне с большим трудом, но удалось уговорить спонсора заявителя перечислить на счёт Вашей фирмы указанную Вами сумму в \$4,000. Копию платёжного поручения прилагаю. Надеюсь, что таким образом сняты все вопросы по данной заявке и Вы предпримите все необходимые действия для положительного завершения её рассмотрения.

Sincerely yours,

Valery. P. Zyl

Enclosure – one page

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vs Patent Application
No 09/830635
VALER 11.001 APC



John M. Carson
619-687-8632
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June 15, 2007
VIA E-MAIL AND AIRMAIL
vflerypz@mtu-net.ru

Mr. Valery P. Zyl
Leminsky Avenue, d.60/2
KV160 Moscow, 117333, RUSSIA

Re: U.S. Patent Application
Title: CONTACT NODE
Serial No.: 09/830635
Filing Date: August 2, 2001
Our Reference: VALER11.001APC
Your Reference No.: RU-US-12001

Dear Mr. Zyl:

Thank you for your June 6, 2007 letter. As we previously informed you, given the significant amount of outstanding invoices (over \$30,000), we need a retainer for handling this case.

We understand from your June 6 letter that you would like to choose option 2: replying to the Office Action (OA) by canceling the rejected claims and filing a petition for revival. Pursuant to your request, we break down the costs and our professional fees as follows.

Replying to OA: \$510 (governmental fees) and about \$1,000 (professional fees)
Preparing and filing a petition for revival: \$250 (governmental fees) and about \$2,250 (professional fees)

Please send us a retainer of \$4,000 for us to initiate working on the above tasks. Please note that we will not reply to this Office Action until we receive a retainer from you.

If you have any questions or comments, please do not hesitate to contact me.

Most sincerely,

John M. Carson

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VIA FACSIMILE (619) 235 - 0176

Mr. John M. Carson
KNOBBE MARTENS OLSON & BEAR LLP
550 West C Street
Suite 1200
San Diego CA 92101, USA

Moscow, June 06, 2007

Your ref.: **VALER11.001APC**
My ref.: **RU-US 1-2001**

RE: U.S. Patent Application No. **09/830635**
Filed: **August 2, 2001**
Applicants: **TARAN A.I.**
Title: **CONTACT NODE**

Dear Mr. Carson:

Thanks for your message of 20th April, which we received on 8th May this year and which definitely disappointed our client. We can't imagine why receiving a copy of patent Office decision directed to the previous address of the firm should take the entire year and, in addition, expenses of the firm incidental to receiving this copy must cover the Applicant for a patent.

Referring to your notice that preparation and submission of the answer to the Office for the next action cost US\$ 4000 or 6000 our client reminds you that he is a pensioner and his *monthly* pension is US\$ 110. All expenses bound up with taking out a patent for his 4th application (the previous three ones as you know were long ago realized with success) are paid by a Sponsor.

Naturally enough, the Sponsor knows all rates used at present by the US lawyers firms in rendering mediation services in the domain of intellectual property protection (hour-to-hour prices as well as remuneration for execution

of certain operations (types of works). In this connection, the Sponsor would like to receive from you estimate of expenses for the work including only the preparation of a covering letter to the Office with enclosure of submitted invention formula items which are recommended by the Expert as patentable.

The Sponsor could consider your proposal provided that the next answer prepared by you, with our participation, would guarantee that the Applicant for the patent will obtain it for the entire formula of the invention submitted. However the analysis of the complete correspondence does not give the basis for such optimism and this opinion is confirmed by the latest decision of the Office. It copies word by word the previous decision of the Office and not a single argument we have offered is considered in full measure. Besides, it was not explained on what reasons the advanced arguments were not taken into account by the Expert.

Meanwhile, all arguments of the Expert were thoroughly analyzed by the Applicant, all opposed references were examined, and it was explained in detail why these, in opinion of the Applicant, do not discredit the submitted invention: either its novelty, or inventiveness level. In addition, as you remember, for the preparation of the answer with our comments taken into account and subsequent submission to the Office the Applicant settled your account in the amount of about US\$5000.

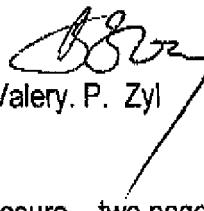
The Applicant considers the further correspondence with the Expert to be inexpedient and unproductive. The only reasonable way to settle the situation is to give the Expert our consent to issuance of the patent with the invention formula items which, in the Expert's opinion, as it follows from the latest decision of the Office, correspond to conditions of patentability.

Proceeding from the above, it is not quite understandable how, in the existence of the above-mentioned answer of the Office, one can offer the Applicant to continue the discussion with the Expert when he twice confirmed his opinion on the given application.

Surely, the Applicant is aware that this incomplete patent hardly can interest a potential investor but taking into account that the Applicant has already invested considerable sums into the patenting of the given invention he decided to agree with the opinion of the Expert and sent you the version of the corrected invention formula which was recommended by the Expert. Thus, the Applicant still intends to complete the examination of the given application with your firm participation minimizing considerably his expenditures at its final stage. Therefore, please, inform us in detail about all operations and their cost incidental to sending to the Office the invention formula including those items of the invention formula that are patentable.

On receiving your clarifications, the Applicant will provide you with relevant instructions.

Sincerely yours,


Valery. P. Zyl

Enclosure – two pages (повторно)

Knobbe Martens Olson & Bear LLP

Intellectual Property Law

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John M. Carson
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April 20, 2007
VIA E-MAIL AND AIRMAIL
vflerypz@mtu-net.ru

Mr. Valery P. Zyl
Leminsky Avenue, d.60/2
KV160 Moscow, 117333, RUSSIA

Re: U.S. Patent Application
Title: CONTACT NODE
Serial No.: 09/830635
Filing Date: August 2, 2001
Our Reference: VALER11.001APC
Your Reference No.: RU-US-12001

Dear Mr. Zyl:

Thank you for your April 15, 2007 letter. As we informed you in our February 28, 2007 letter, given the significant amount of outstanding invoices (over \$30,000), we need a retainer for handling this case.

We previously estimated about \$6,000 for option 1 (providing our comments on the prior art rejections and revival) and \$4,000 for option 2 (replying to the Office Action by canceling the rejected claims). Both options include filing a petition for revival. It is not clear from your letter and the attached claims which option you would like to choose. **Please send us your instructions and a retainer of \$6,000 for option 1 or \$4,000 for option 2. Please note that we will not reply to this Office Action until we receive a retainer from you.**

If you have any questions or comments, please do not hesitate to contact me.

Most sincerely,

John M. Carson

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Mr. John M. Carson
KNOBBE MARTENS OLSON & BEAR LLP
550 West C Street
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San Diego CA 92101, USA

Moscow, April 15, 2007

Your ref.: VALER11.001APC
My ref.: RU-US 1-2001

RE: U.S. Patent Application No. 09/830635
Filed: August 2, 2001
Applicants: TARAN A.I.
Title: CONTACT NODE

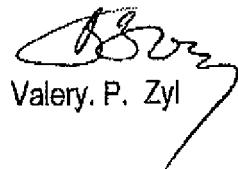
Dear Mr. Carson:

We have received the Decision on Petition USPTO only 18 march 2007. Thus, the opposed aforementioned US Patents cannot, in our opinion, discredit the claimed invention under 35 U.S.C. 103(a) neither together nor separately, since they solve other problems in other ways and by other means.

At the same time, to avoid a pointless discussion, and if the respected Examiner considers our arguments insufficiently convincing, we are ready to make claims more precise in accordance with recommendations of the respected Examiner (Office Action Summary – Disposition of Claims – 7) Claim(s) 37-45 is/are objected to)

Is you find necessary, in accordance with the established legal practice in the USPTO, to include in both the present answer and enclosed claims the corresponding correction promoting the positive completion in examining the present Application, do it without any hesitation.

Sincerely yours,


Valery. P. Zyl

Enclosure – two pages

John M. Carson
619-687-8632
jcarson@kmob.com

February 28, 2007
VIA E-MAIL AND AIRMAIL
vflerypz@mtu-net.ru

Mr. Valery P. Zyl
Leminsky Avenue, d.60/2
KV160 Moscow, 117333, RUSSIA

Re: U.S. Patent Application
Title: CONTACT NODE
Serial No.: 09/830635
Filing Date: August 2, 2001
Our Reference: VALER11.001APC
Your Reference No.: RU-US-12001

Dear Mr. Zyl:

Enclosed is a copy of the *Decision on Petition* which we received from the U.S. Patent and Trademark Office (USPTO) for the above-identified patent application. Unhappily, the petition to withdraw the holding of abandonment is dismissed. It appears that there was an administrative miscommunication between our firm and the USPTO. We note from the Decision that the USPTO has now our correct correspondence address in their record. **Please note that any request for consideration of this decision must be filed by March 24, 2007.**

However, the good news is that the USPTO enclosed the missing Office Action and indicated that we may file a petition to revive the unintentionally abandoned application instead of replying to the dismissed decision, which seems a cost-effective approach.

We note from the Office Action that Claims 37-45 were indicated to be allowable if rewritten in independent form as in the previous Office Action. The remaining claims were rejected based on the combination of the previous reference (U.S. Patent No. 6,100,475) and newly found prior art (U.S. Patent No. 5,406,459). We have not reviewed the Examiner's rejections and cited references. If you would like us to review the rejections and provide you with our comments and suggestions, please let us know. In the alternative, please provide us with your instructions as to how we should respond to the Office Action in the rejections. We

Valery P. Zyl
February 28, 2007
Page -2-

recommend submitting the petition including a reply to the Office Action as soon as possible to effectively argue that the delay of submitting an Office Action reply was unintentional.

We estimate about \$6,000 (option 1), which is inclusive of our legal fees of \$4,000-5,000 for providing our comments on the prior art rejections and revival, and governmental fees of about \$1,300. If you cancel the rejected claims (option 2), our estimate will be reduced to about \$3,000-4,000. If you would like us to proceed, **please send us your instructions and a retainer of \$6,000 for option 1 or \$4,000 for option 2.**

As you have already been informed, the duty of submitting prior art to the United States Patent and Trademark Office is an ongoing duty throughout the pendency of the application. Accordingly, any newly found prior art should be promptly forwarded to us.

If you have any questions or comments, please do not hesitate to contact me.

Most sincerely,

John M. Carson

Enclosures

cc: U.S. Docketing

Our Ref.: VALER11.001APC

Enclosure

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